

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 05-10016-RCL
)	
MICHAEL McDONALD)	
_____)	

DEFENDANT'S MOTION TO REVOKE DETENTION ORDER

Defendant, Michael McDonald, moves, pursuant to 18 U.S.C. § 3142, that the Court revoke the order detaining him. In support of said motion, defendant states that changed circumstances justify releasing Mr. McDonald on appropriate conditions.

On October 28, 2005, this Court allowed Mr. McDonald's motion to suppress. That motion essentially nullifies the government's case. Government counsel has withdrawn its appeal of the Court's Order allowing the motion.

Defendant submits that the allowance of the suppression motion as well as

evidence adduced at the detention hearing tip the balance in favor of release. First,

the weight of the (admissible) evidence is now nil. See 18 U.S.C. § 142(g)(2). Second,

the evidence at the detention hearing established that although Agent Peter Darling

had extensive experience in narcotics investigations, controlled purchases of drugs,

and the use of confidential informants, neither he nor any of the experienced

drug

enforcement investigators working with him on this particular matter had any prior knowledge whatsoever of the defendant, Michael McDonald. (Detention hearing, December 7, 2004, p. 39)

Defendant has spent approximately 20 months in custody. His two co-defendants have already plead guilty and been sentenced. The Government will certainly concede that the respective participation of Messers. Carr and Sorrell was

significantly more incriminating than any alleged activity of defendant Michael McDonald. Mr. Sorrell was committed for a term of 24 months, just slightly longer than

Mr. McDonald's present period of detention. Mr. Carr received a commitment of 42

months.

Defendant therefore submits that there are conditions that would reasonably assure that he will appear in court as required and that will reasonably assure the safety of the community. Defendant has long established roots in Boston, with no history of violence nor any history of defaults.

REQUEST FOR HEARING

Defendant requests a hearing on this motion.

MICHAEL McDONALD
By his attorney,

/s/ John M. Moscardelli

JOHN M. MOSCARDELLI, BBO #
357340

Peters & Moscardelli
Eight Winter Street, 12th Floor
Boston, MA 02108
Tel. (617) 423-6222

DATED:

Certificate of Service

I, JOHN M. MOSCARDELLI, counsel for the defendant, Michael McDonald, hereby certify that I have this day served a copy of the foregoing motion upon Assistant United States Attorney Donald Cabell of the United States Attorney's Office, United States District Court, One Courthouse Way, Suite 9200, Boston, MA 02210 by mailing the same, postage pre-paid.

JOHN M. MOSCARDELLI